

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)	CHAPTER 13 PROCEEDING
)	
ELTON TABOR,)	CASE NO. 15 B 26544
)	
DEBTOR.)	HONORABLE TIMOTHY A. BARNES

**ITEMIZATION OF FEES AND COSTS
REQUESTED BY THE UNITED STATES TRUSTEE**

NOW COMES PATRICK S. LAYNG, the United States Trustee for Region 11 (the “U.S. Trustee”), by his attorneys, Jeffrey S. Snell, M. Gretchen Silver, and Elizabeth Brusa, and pursuant to the Court’s Order dated April 11, 2018, submits his itemization of the fees and costs he requests relating to his Motion for Sanctions in the above-captioned case.

The U.S. Trustee does not request attorney fees for many aspects of this litigation.¹ The time itemized below was recorded by the U.S. Trustee’s counsel substantially contemporaneous with the task performed and/or was objectively verified by counsel based on other records. With the exceptions of Robert Schaller’s deposition, the October 25, 2017 hearing on pretrial motions, and the trial itself, the U.S. Trustee has limited his requests to the time of one attorney for each task, irrespective of how many attorneys actually participated.² The hourly rates at which compensation is sought are calculated using a Department of Justice formula designed to capture

¹ For example, the U.S. Trustee has not sought fees for: the drafting of his original Motion for Sanctions and Reply to Respondent’s Objection to same; much of the time expended on discovery; or the time expended preparing his post-trial brief.

² For example, all three of the U.S. Trustee’s counsel in this matter attended the majority of the witness preparation meetings, but fees are sought for the time of only one attorney for each meeting.

the Department's actual costs per hour, and reflect the hourly rates in effect at the time each given task was performed.³

Throughout the below itemization, attorneys' names are abbreviated with initials, as follows:

Initials	Individual	Role
JSS	Jeffrey Snell	U.S. Trustee's counsel
MGS	M. Gretchen Silver	U.S. Trustee's counsel
EB	Elizabeth Brusa	U.S. Trustee's counsel
AB	Adam Brief	Assistant U.S. Trustee
PL	Patrick Layng	U.S. Trustee
TD	Thomas Durkin	Respondent's counsel
KM	Keevan Morgan	Respondent's counsel
AM	Alanna Morgan	Respondent's counsel

The fees and costs requested by the U.S. Trustee fall into seven categories and total \$52,363.46.

Category Number	Description	Amount
I	Fees relating to Robert Schaller's Rule 9011 Motion served upon the U.S. Trustee on November 8, 2016	\$ 119.93
II	Fees relating to attempted deposition of Elton Tabor	\$ 554.40
III	Fees relating to the Motion to Compel Robert Schaller to comply with the U.S. Trustee's Request for Production	\$ 4,054.05
IV	Fees relating to the deposition of Robert Schaller and related discovery issues	\$ 3,548.62
V	Fees relating to pretrial matters	\$ 9,677.61
VI	Fees relating to trial	\$ 29,314.45
VII	Transcription Costs	\$ 5,094.40
	Total:	\$ 52,363.46

³ The formula is comprised of the hourly rate of the attorney's annual salary, a benefit recapture component based on the hourly rate, and a fixed Department of Justice overhead expense.

I. Fees relating to Robert Schaller's Rule 9011 Motion served upon the U.S. Trustee on November 8, 2016

After the U.S. Trustee filed his Motion for Sanctions against Robert Schaller in the above-captioned case, Schaller served a Rule 11 motion upon the U.S. Trustee and his counsel. The U.S. Trustee requests fees for the following time expended in connection with Schaller's motion:

Date	UST Attorney	Task	Time	Rate	Amount
11/8/2016	JSS	Review Rule 9011 motion for sanctions sent by Keegan Morgan (KM)	0.5	\$ 171.33	\$ 85.67
11/9/2016	JSS	Call with Patrick Layng (PL) (with Adam Brief (AB) and M. Gretchen Silver (MGS)) to discuss sanctions motion	0.2	\$ 171.33	\$ 34.27
Total Time:			0.7	Fees Requested:	\$ 119.93

II. Fees relating to attempted deposition of Elton Tabor

During discovery in the above-captioned case, the U.S. Trustee attempted to conduct a deposition of Elton Tabor. The deposition was originally scheduled for March 27, 2017, by subpoena issued February 23, 2017. The original deposition was rescheduled after a series of communications from Robert Schaller's counsel that began one week prior to the scheduled deposition date. The effort to depose Mr. Tabor was eventually abandoned after several attempts to schedule the deposition proved unsuccessful. The U.S. Trustee requests fees for the following time relating to the attempted deposition of Mr. Tabor:

Date	UST Attorney	Task	Time	Hourly Rate	Amount
3/20/2017	JSS	Receive and review letter from Thomas Durkin (TD) regarding deposition of Elton Tabor.	0.2	\$ 173.25	\$ 34.65

3/20/2017	JSS	Consult internal DOJ guidance materials regarding TD's request that PL author a letter to Elton Tabor suggesting that he retain counsel under the Criminal Justice Act or speak with the Federal Defender	0.4	\$ 173.25	\$ 69.30
3/21/2017	JSS	Draft response to TD's 3/20/17 letter re Elton Tabor (0.3); meet with PL, AB, and Elizabeth Brusa (EB) to discuss response (0.5)	0.8	\$ 173.25	\$ 138.60
3/22/2017	JSS	Receive TD's email re: contacting Elton Tabor and read (.1), forward to PL and AB and meet to discuss response (.2), draft and send response (.2)	0.5	\$ 173.25	\$ 86.63
3/23/2017	JSS	Review letter from TD to Elton Tabor. Discuss with PL and AB	0.2	\$ 173.25	\$ 34.65
3/23/2017	JSS	Draft letter and amended subpoena to Elton Tabor rescheduling deposition for April 18, 2017. Discuss content of letter with AB before sending	0.4	\$ 173.25	\$ 69.30
3/26/2017	JSS	Review KM's email to witness re: UST Letter of 3/24	0.1	\$ 173.25	\$ 17.33
3/27/2017	JSS	Discuss UST response to KM 3/26 email to Elton Tabor with AB and MGS	0.1	\$ 173.25	\$ 17.33
3/27/2017	JSS	Email to KM requesting clarification as to exactly what he contends was misstated in UST's 3/23 correspondence that is the premise of his 3/26 email to Elton Tabor	0.1	\$ 173.25	\$ 17.33
4/3/2017	JSS	Review email to Elton Tabor from KM on 3/31/17	0.1	\$ 173.25	\$ 17.33
4/6/2017	JSS	Follow-up email to KM re: misstatement he was referencing in email to Elton Tabor	0.1	\$ 173.25	\$ 17.33
4/17/2017	JSS	Phone call from Elton Tabor re rescheduling deposition set for 4/20	0.1	\$ 173.25	\$ 17.33
4/17/2017	JSS	Email Robert Schaller's counsel re: rescheduling of Elton Tabor's deposition	0.1	\$ 173.25	\$ 17.33
Total Hours:			3.2	Fees Requested:	\$ 554.40

III. Fees relating to Motion to Compel [Dkt. 55]

On April 12, 2017, the U.S. Trustee filed his Motion to Compel Robert Schaller to produce documents in response to a February 1, 2017, Request for Production propounded under Rule 34. (See Dkt. 55.) The U.S. Trustee requests fees for the following time relating to the Motion to Compel:

Date	UST Attorney	Task	Time	Hourly Rate	Amount
4/7/2017	JSS	Legal research re: privilege and work product for motion to compel. Begin drafting motion	4	\$ 173.25	\$ 693.00
4/10/2017	JSS	Work on drafting motion to compel. Review chronology of events and correspondence for recitation of facts.	5	\$ 173.25	\$ 866.25
4/11/2017	JSS	Edit and redraft motion to compel (4.5); send to MGS and EB, and incorporate their comments (.1)	4.6	\$ 173.25	\$ 796.95
4/12/2017	JSS	Final revisions and proofreading of motion to compel; add footnotes and detail re: LBR 7037-1	1.2	\$ 173.25	\$ 207.90
4/12/2017	JSS	Draft proposed order for motion to compel	0.2	\$ 173.25	\$ 34.65
4/18/2017	JSS	Email to KM re: audio recordings	0.1	\$ 173.25	\$ 17.33
4/20/2017	JSS	Review response to Motion to Compel. Note the incomplete quotation in paragraph 17. Locate the 3/20 email from which quotation taken	0.5	\$ 173.25	\$ 86.63
4/20/2017	JSS	Email KM regarding omitted quotation in paragraph 17 of Response to Motion to Compel	0.3	\$ 173.25	\$ 51.98
4/20/2017	JSS	Receive and review email from KM asking if his omission in paragraph 17 was "inadvertent"	0.1	\$ 173.25	\$ 17.33
4/20/2017	JSS	Email KM re audio recordings, and lack of response to 3/18 inquiry	0.1	\$ 173.25	\$ 17.33
4/20/2017	JSS	Court hearing on motion to compel and motion to extend discovery for UST. In court 1 hour.	0.2	\$ 173.25	\$ 34.65

4/20/2017	JSS	Discussion outside court with KM, Elton Tabor, Michael Oreluk and GS re: Tabor's review of documents by 5/12	0.2	\$ 173.25	\$ 34.65
4/20/2017	JSS	Discussion with KM after post-hearing group discussion. Topics were audio recording and privilege generally	0.3	\$ 173.25	\$ 51.98
4/26/2017	JSS	Email to KM and other counsel re: audio recordings (3rd request)	0.2	\$ 173.25	\$ 34.65
5/17/2017	JSS	Email to KM following up on Tabor 4/26 letter and document production	0.1	\$ 173.25	\$ 17.33
5/17/2017	JSS	Attempted call with KM to ET	0.1	\$ 173.25	\$ 17.33
5/18/2017	JSS	Email to KM re: follow-up items from 5/17 production	0.2	\$ 173.25	\$ 34.65
5/24/2017	JSS	Follow-up email to KM re: outstanding documents and audio	0.1	\$ 173.25	\$ 17.33
5/25/2017	JSS	Status hearing re: Motion to Compel	0.1	\$ 173.25	\$ 17.33
5/25/2017	JSS	Receive and respond to email from KM re: missing documents	0.1	\$ 173.25	\$ 17.33
6/7/2017	JSS	Two emails with KM re: attorney fees incurred in connection with motion to compel	0.2	\$ 173.25	\$ 34.65
6/13/2017	JSS	Draft status report re: Motion to Compel	0.3	\$ 173.25	\$ 51.98
6/15/2017	JSS	Receive, review and respond to email from KM re: status report	0.2	\$ 173.25	\$ 34.65
6/15/2017	JSS	Receive and respond to email from KM where he alleges that UST is violating court order re: joint status report	0.1	\$ 173.25	\$ 17.33
6/15/2017	JSS	Call with KM re: status report. Agree to send him a modified draft of the UST report if he wants to add language re: Schaller's position and file as joint report	0.2	\$ 173.25	\$ 34.65
6/15/2017	JSS	Modify UST status report draft to become joint report and send to KM	0.2	\$ 173.25	\$ 34.65
6/15/2017	JSS	Receive draft status report from KM that is riddled with pagination issues. Word copy will not open. Respond to KM and advise that the UST will file his own report	0.1	\$ 173.25	\$ 17.33
6/15/2017	JSS	Finalize and file UST status report re: Motion to Compel	0.1	\$ 173.25	\$ 17.33
6/15/2017	JSS	Receive and review email from KM claiming that the UST has violated a court order	0.1	\$ 173.25	\$ 17.33

6/29/2017	JSS	Prepare for status hearing on motion to compel. Gather emails from KM and put together timeline to document the reality of discovery history in this case	2	\$ 173.25	\$ 346.50
6/29/2017	JSS	Appear for 11:00 AM status hearing. Wait for case to get called (2+ hours). Status (.2)	2.2	\$ 173.25	\$ 381.15
Total Hours:			23.4	Fees Requested:	\$ 4,054.05

IV. Deposition of Robert Schaller and Related Discovery Issues

The U.S. Trustee conducted a deposition of Robert Schaller on June 1, 2017. In advance of the deposition, time had to be expended to pair emails and attachments produced in .pdf format by Robert Schaller during discovery. The U.S. Trustee requests fees for the following time relating to the deposition and discovery issues:

Date	UST Attorney	Task	Time	Hourly Rate	Amount
5/25/2017	JSS	Prepare for Robert Schaller deposition	1.2	\$ 173.25	\$ 207.90
5/25/2017	JSS	Email to KM re: pairing attachments with emails produced in .pdf format	0.1	\$ 173.25	\$ 17.33
5/30/2017	JSS	Email exchange with KM about outstanding documents. Respond to KM's assertion that production of disorganized materials with attachments separated from emails is proper. Note text of Rule 34(b)	0.3	\$ 173.25	\$ 51.98
5/30/2017	JSS	Review KM email re: Tabor documents and his presumption of an interview between the U.S. Trustee and Mr. Tabor. Respond to same.	0.3	\$ 173.25	\$ 51.98

5/30/2017	JSS	Multiple emails from and to KM regarding Rule 34, and his insistence that it has been complied with. KM requests that the UST bear the burden of identifying emails in Robert Schaller's production, and he will then look for the attachments.	0.4	\$ 173.25	\$ 69.30
5/30/2017	JSS	Preparation for Schaller deposition	4.5	\$ 173.25	\$ 779.63
5/31/2017	JSS	Preparation for Schaller deposition	4	\$ 173.25	\$ 693.00
6/1/2017	JSS	Preparation for Schaller deposition	1.5	\$ 173.25	\$ 259.88
6/1/2017	JSS	Attend deposition of Robert Schaller	4	\$ 173.25	\$ 693.00
6/1/2017	MGS	Attend Deposition of Robert Schaller	4	\$ 181.16	\$ 724.64
Total Hours:			20.3	Fees Requested:	\$ 3,548.62

V. Pretrial Matters

In advance of the trial in this matter, the U.S. Trustee's counsel expended considerable time preparing exhibits, his pretrial statement, his motion *in limine* and objection to Robert Schaller's pretrial statement, and his omnibus response to Schaller's objection and four separate motions *in limine*. The U.S. Trustee requests fees for the following time relating to these efforts:

Date	UST Attorney	Task	Time	Hourly Rate	Amount
8/24/2017	MGS	Preparation of UST pretrial statement	1.5	\$ 181.16	\$ 271.74
9/16/2017	JSS	Preparation of UST pretrial statement and exhibits	2	\$ 175.95	\$ 351.90
9/17/2017	JSS	Preparation of UST pretrial statement	1.5	\$ 175.95	\$ 263.93
9/18/2017	JSS	Preparation of UST pretrial statement and exhibits	7.5	\$ 175.95	\$ 1,319.63
9/19/2017	JSS	Preparation of UST pretrial statement and exhibits	7.5	\$ 175.95	\$ 1,319.63
9/19/2017	MGS	Review draft of UST pretrial statement and provide edits	2.7	\$ 181.16	\$ 489.13
9/20/2017	JSS	Finalize UST pretrial statement	3	\$ 175.95	\$ 527.85
9/26/2017	JSS	Email to Alanna Morgan (AM) requesting Schaller Exhibit 73 after verifying that the UST never received a video in discovery.	0.2	\$ 175.95	\$ 35.19

9/27/2017	JSS	Follow-up email to KM requesting Schaller Exhibit 73	0.1	\$ 175.95	\$ 17.60
9/27/2017	JSS	Draft response to Schaller proposed stipulated facts	1.5	\$ 175.95	\$ 263.93
9/28/2017	JSS	Follow-up email to AM, KM, and TD requesting Schaller Exhibit 73	0.1	\$ 175.95	\$ 17.60
10/2/2017	JSS	Email to KM re Exhibit 73	0.2	\$ 175.95	\$ 35.19
10/5/2017	JSS	Review and respond to email from AM re: stipulations	0.2	\$ 175.95	\$ 35.19
10/5/2017	JSS	Review two emails from KM conveying his view of stipulations	0.1	\$ 175.95	\$ 17.60
10/6/2017	JSS	Work on comments to Schaller proposed stipulated facts and transmit to AM by 9 a.m. per agreement	1.5	\$ 175.95	\$ 263.93
10/6/2017	JSS	Review stipulation feedback from AM that is untimely and incomplete	0.2	\$ 175.95	\$ 35.19
10/6/2017	JSS	Send additional copies of UST exhibits to AM per her request	0.1	\$ 175.95	\$ 17.60
10/6/2017	JSS	Research admissibility of Zillow valuations for motion <i>in limine</i> re: Schaller Exhibits 51 and 52	0.5	\$ 175.95	\$ 87.98
10/10/2017	JSS	Finish Zillow research. Draft motion <i>in limine</i> re: Zillow Exhibits	0.7	\$ 175.95	\$ 123.17
10/10/2017	JSS	Draft objection to Schaller's Pretrial Statement	2.2	\$ 175.95	\$ 387.09
10/11/2017	JSS	Final review of motion <i>in limine</i> re: Zillow Exhibits and Objection to Schaller's Pretrial Statement before filing	0.5	\$ 175.95	\$ 87.98
10/11/2017	JSS	Receive and respond to two emails from KM regarding rebuttal exhibits	0.2	\$ 175.95	\$ 35.19
10/11/2017	JSS	Receive and review multiple emails from AM about stipulated facts	0.3	\$ 175.95	\$ 52.79
10/12/2017	JSS	Review four motions <i>in limine</i> and objection filed by Robert Schaller	0.8	\$ 175.95	\$ 140.76
10/18/2017	JSS	Begin drafting omnibus response to Robert Schaller's four motions <i>in limine</i> and objection to U.S. Trustee's pretrial statement. Review transcripts and documents from other cases cited in Robert Schaller's papers	7	\$ 175.95	\$ 1,231.65

10/20/2017	JSS	Finish drafting omnibus response to Robert Schaller's motions <i>in limine</i> and objection. Circulate internally for comments.	4.5	\$ 175.95	\$ 791.78
10/20/2017	MGS	Review, comment on, and discuss with JSS motions <i>in limine</i> and objection	2	\$ 181.16	\$ 362.32
10/20/2017	JSS	Review and revise draft of motion for leave to file omnibus response	0.1	\$ 175.95	\$ 17.60
10/24/2017	MGS	Prepare for court hearing on 10/25/17	2	\$ 181.16	\$ 362.32
10/25/2017	JSS	Attend court hearing on pretrial motions	2	\$ 175.95	\$ 351.90
10/25/2017	MGS	Attend court hearing on pretrial motions	2	\$ 181.16	\$ 362.32
Total Time:			54.7	Fees Requested:	\$ 9,677.61

VI. Trial

The U.S. Trustee requests fees for the following time expended in connection with the trial on the Motion for Sanctions that commenced November 6, 2017:

Date	UST Attorney	Task	Time	Hourly Rate	Amount
10/26/2017	MGS	Trial Preparation	4.5	\$ 181.16	\$ 815.22
10/27/2017	MGS	Prepare for and meet with Michael Fabinski in preparation for trial	2.5	\$ 181.16	\$ 452.90
10/31/2017	EB	Prepare outline of questions to ask summary chart witness, Patricia Brasier	0.5	\$ 129.48	\$ 64.74
10/31/2017	MGS	Prepare for and meet with Michael Oreluk in preparation for trial	1	\$ 181.16	\$ 181.16
11/1/2017	MGS	Prepare for and meet with Austin Pollak in preparation for trial	3	\$ 181.16	\$ 543.48
11/1/2017	MGS	Trial Preparation	1.5	\$ 181.16	\$ 271.74
11/2/2017	MGS	Travel to Elton Tabor's home on 64th Street and meet with him in preparation for trial	3	\$ 181.16	\$ 543.48
11/2/2017	EB	Meet with Patricia Brasier in preparation for trial	0.5	\$ 129.48	\$ 64.74
11/2/2017	MGS	Trial Preparation	3	\$ 181.16	\$ 543.48
11/3/2017	MGS	Trial Preparation	9	\$ 181.16	\$ 1,630.44

11/4/2017	MGS	Trial Preparation	3.5	\$ 181.16	\$ 634.06
11/6/2017	MGS	Trial and related preparation	11	\$ 181.16	\$ 1,992.76
11/6/2017	JSS	Trial and related preparation	11	\$ 175.95	\$ 1,935.45
11/6/2017	EB	Trial and related preparation	9	\$ 139.77	\$ 1,257.93
11/7/2017	MGS	Trial and related preparation	11	\$ 181.16	\$ 1,992.76
11/7/2017	JSS	Trial and related preparation	11	\$ 175.95	\$ 1,935.45
11/7/2017	EB	Trial and related preparation	5.5	\$ 139.77	\$ 768.74
11/8/2017	MGS	Trial and related preparation	10	\$ 181.16	\$ 1,811.60
11/8/2017	JSS	Trial and related preparation	10	\$ 175.95	\$ 1,759.50
11/8/2017	EB	Trial and related preparation	6.7	\$ 139.77	\$ 936.46
11/9/2017	MGS	Trial Preparation	2	\$ 181.16	\$ 362.32
11/20/2017	MGS	Trial Preparation	3.5	\$ 181.16	\$ 634.06
11/21/2017	MGS	Trial Preparation	1	\$ 181.16	\$ 181.16
11/24/2017	MGS	Trial Preparation	7	\$ 181.16	\$ 1,268.12
11/24/2017	EB	Trial Preparation	0.2	\$ 139.77	\$ 27.95
11/27/2017	MGS	Trial and related preparation	10.5	\$ 181.16	\$ 1,902.18
11/27/2017	JSS	Trial and related preparation	10.5	\$ 175.95	\$ 1,847.48
11/27/2017	EB	Trial and related preparation	7.5	\$ 139.77	\$ 1,048.28
11/29/2017	MGS	Trial and related preparation	6.5	\$ 181.16	\$ 1,177.54
11/29/2017	JSS	Trial and related preparation	2	\$ 175.95	\$ 351.90
11/29/2017	EB	Trial and related preparation	2.7	\$ 139.77	\$ 377.38
Total Hours:			170.6	Fees Requested:	\$ 29,314.45

VII. Transcript Costs

The U.S. Trustee requests reimbursement of the following out-of-pocket costs incurred in connection with the Motion for Sanctions in the above-captioned matter:

Item	Cost
Transcripts of 11/22/16 and 1/26/17 hearings in <i>In re Elton Tabor</i>	\$ 60.00
Transcript of June 1, 2017, deposition of Robert V. Schaller	\$ 1,222.30
Transcript of 11/6/17 trial day	\$ 1,251.30
Transcripts of 11/7/17 trial day	\$ 383.15
Transcript of 11/8/17 trial day	\$ 926.35
Transcript of 11/27/17 trial day	\$ 994.25
Transcript of 11/29/17 trial day	\$ 257.05
Total Costs Requested:	\$ 5,094.40

WHEREFORE, the U.S. Trustee requests the Court enter an order awarding the above fees and costs and providing any other and further relief as is just.

RESPECTFULLY SUBMITTED,

PATRICK S. LAYNG
UNITED STATES TRUSTEE

Dated: April 30, 2018

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